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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,543	05/12/2004	Richard C. Whiffen	19441-0069	3542
29052	7590	09/30/2005		
SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309			EXAMINER MASINICK, MICHAEL D	
			ART UNIT 2125	PAPER NUMBER

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/709,543	WHIFFEN ET AL.
	Examiner Michael D. Masnick	Art Unit 2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 May 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. Claims 1-16 are pending in this application. This is the first office action on the merits.

### *Claim Objections*

2. Claims 1-7 are objected to because of the following informalities: Claim 1 states "...to view at least one of the reports". There is insufficient antecedent basis for the term "the reports". Appropriate correction is required. This claim is further treated as if it said "to view at least one report".

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,437,692 to Petite et al.

5. Referring to claims 1, 15, and 16, Petite shows a method and computer program product for providing access to real-time emissions data of a distributed network, comprising: receiving real-time emissions data associated with a first power generating plant ("power generation" – column 1, line 42 and "real-time monitoring", Column 2, lines 7-14); receiving a request from a user to view at least one of the reports, wherein the request is sent from a web browser (Column 2, lines 42-53 – Examiner notes that when using a web browser, all web pages must be

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“requested” in some fashion by clicking on a link or by requesting a page directly); generating a report based at least in part on the emissions data (Column 7, lines 41-57); sending the report to the user, wherein the report is viewable with a web browser (Column 7, lines 41-57); receiving a request from the user to view emissions data associated with a second power generating plant; determining if the user is authorized to view emissions data associated with the second power generating plant; and if the user is authorized, then providing the user with access to the emissions data associated with the second power generation plant (Examiner notes that a security system based on a login interface is well known in web server technology and is shown in Petite in column 2, lines 50-53. The security permissions noted in that passage would inherently be able to allow or prevent access to data which is appropriate for any specific user.)

6. Referring to independent claim 8, Petite shows a system that provides access to real-time emissions data of a distributed network, comprising: a data collection device that receives real-time emissions data associated with a first power generating plant (“power generation” – column 1, line 42 and “real-time monitoring”, Column 2, lines 7-14 and “emissions” show in column 18, line 2); a web-based data acquisition and handling system (DAHS) module that receives the emissions data from the data collection device and generates reports based at least in part on the emissions data (Column 7, lines 41-57); and at least one database that stores the emissions data and the reports (Column 3, lines 27-29); wherein the web-based DAHS module is configured to receive a request from the user to view at least one report associated with the first power generation plant, and in response generates a web interface including the requested report and sends the web interface to the user for viewing with a browser application (Column 7, lines 41-57).

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7. Referring to claim 2, Petite shows where the step of generating the report is in response to the request (Column 3, lines 39-44).
8. Referring to claim 3, Petite shows generating a plurality of reports (Examiner notes that reports are generated as requested as shown with relation to claim 2. Thus, generating a plurality of reports is performed when a plurality of requests are made for those reports).
9. Referring to claim 4 and 11, Petite shows wherein the report includes at least one of historical and real-time data (Examiner notes that all data is either real-time or historical. There is no other kind of data. Petite show both real time as noted above in claim 1, and historical data pulled from a database).
10. Referring to claim 5 and 12, Petite shows receiving a request from a user to view episode data, wherein the request is sent from a web browser; generating a report presenting the requested episode data; and sending the report to the user, wherein the report is viewable with a web browser (The term “episode” is viewed herein to mean data for a certain period of time. The specification does not specifically point out a different meaning and applicant is asked to clarify this term if this definition is not correct. Column 3, lines 39-45 show “[acting] as a data formatter with data being delivered upon client request with availability 24 hours a day” and in the next paragraph states “... deliver client application data on a periodic basis”. This data would inherently be stored in the database and be searchable and reportable based on time periods).
11. Referring to claim 6 and 13, Petite shows receiving a request from a user to view calibration data, wherein the request is sent from a web browser; generating a report presenting the requested calibration data; and sending the report to the user wherein the report is viewable

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with a web browser (Column 12, line 41 through column 13, line 30 shows the monitoring and control functions of the invention of Petite which allows for calibration of the systems being controlled. The examples used in Petite in this section are for an automotive control system and an irrigation control system, but the invention applies to all control systems as noted earlier in the specification).

12. Referring to claim 7 and 14, Petite shows receiving a request from a user to view alarm data wherein the request is sent from a web browser; generating a report presenting the requested alarm data; and sending the report to the user wherein the report is viewable with a web browser (“system alarm data” is shown in Column 3, line 6).

13. All elements of claim 9 have been shown with regard to claims 1 and 16 above.

14. Referring to claim 10, Petite shows wherein the at least one database includes one-minute logs of emission data (Column 3, lines 46-50). Examiner notes that in database formatting, all data is generally stored with a timestamp attached thereto. Thus, when searching the data, reports can be generated for minutes, hours, days, and months based on the timestamps. As Petite shows in the above citation, data is sent to the database periodically, which could be minutes, hours, or days.

### *Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. U.S. Patent Publication 2002/0059033 to Batug shows an emissions monitoring system with an emissions reporting module. Examiner notes that this art should be carefully reviewed as it also reads on several of the claims as they are currently written.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Masinick whose telephone number is (571) 272-3746. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael D Masinick  
Examiner  
Art Unit 2125

MDM, September 28, 2005